

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PARSE BIOSCIENCES, INC.,
Petitioner,

v.

10X GENOMICS, INC.,
Patent Owner.

IPR2023-00958
Patent 10,697,013 B1

Before MICHAEL J. FITZPATRICK, SHERIDAN K. SNEDDEN, and
DEVON ZASTROW NEWMAN, *Administrative Patent Judges*.

FITZPATRICK, *Administrative Patent Judge*.

DECISION
Denying Institution of *Inter Partes* Review
35 U.S.C. § 314

I. INTRODUCTION

Petitioner, Parse Biosciences, Inc., filed a Petition to institute an *inter partes* review of all claims, namely claims 1–28, of U.S. Patent No. 10,697,013 B1 (“the ’013 patent”) pursuant to 35 U.S.C. § 311(a). Paper 1 (“Pet.”). Patent Owner, 10X Genomics, Inc., filed a Preliminary Response pursuant to 37 C.F.R. § 42.107(b). Paper 6 (“Prelim. Resp.”).

Institution of an *inter partes* review requires that “the information presented in the petition filed under section 311 and any response filed under section 313 shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” 35 U.S.C. § 314(a). Determining whether to institute has been delegated to the Board. *See* 37 C.F.R. § 42.4(a) (“The Board institutes the trial on behalf of the Director.”).

Upon consideration of the Petition and the Preliminary Response, and for the reasons explained below, we determine that there is not a reasonable likelihood that Petitioner would prevail with respect to at least one claim. Accordingly, we deny the Petition.

A. Related Matters

The parties identify *10x Genomics v. Parse Biosciences, Inc.*, 22-cv-01117 (D. Del.) as involving the ’013 patent. Pet. 3; Paper 4, at 1. Additionally, the parties identify IPR2023-00876, in which institution was granted, and IPR2023-00955, in which an institution decision is pending. Pet. 4; Paper 4, at 1. IPR2023-00876 and IPR2023-00955 involve U.S. Patent No. 10,155,981 B2 (“the ’981 patent”) and U.S. Patent No. 10,240,197 B1 (“the ’197 patent”), respectively, both of which are related to the ’013

patent. *See* Ex. 1001, 1:16–18 (identifying the '981 patent and '197 patent as related).

B. Real Parties In Interest

Each party identifies itself as the sole real party in interest. Pet. 3; Paper 4, at 1.

C. The '013 Patent

The '013 patent is titled “Methods For Analyzing Nucleic Acids From Single Cells.” Ex. 1001, code (54). The focus of the '013 patent Specification, other than the claims, however, is directed to the “reflex method.” For example, the “Summary of the Invention” states in its entirety the following:

Aspects of the present invention are drawn to processes for moving a region of interest in a polynucleotide from a first position to a second position with regard to a domain within the polynucleotide, also referred to as a “reflex method” (or reflex process, reflex sequence process, reflex reaction, and the like). In certain embodiments, the reflex method results in moving a region of interest into functional proximity to specific domain elements present in the polynucleotide (e.g., primer sites and/or MID). Compositions, kits and systems that find use in carrying out the reflex processes described herein are also provided.

Ex. 1001, 1:63–2:6.

The '013 patent's filing date is March 12, 2020. *Id.*, code (22). However, it claims priority through numerous continuation applications and ultimately to a provisional application filed August 20, 2009. Ex. 1001, codes (63), (60), 1:7–34. The Petition does not challenge the asserted priority date of August 20, 2009. *See* Pet. 6 (“[T]he earliest priority date of the '013 Patent is August 20, 2009.”).

D. The Challenged Claims

Review is sought for all of the claims of the '013 patent, namely claims 1–28. Claim 1 is the sole independent claim and reproduced below:

1. A method for multiplexed analysis of nucleic acids from single cells, the method comprising:

(a) providing a sample comprising a plurality of cells, wherein a single cell of the plurality of cells comprises a plurality of sample polynucleotides;

(b) performing combinatorial tagging to generate a plurality of tagged polynucleotides from said plurality of sample polynucleotides and a plurality of oligonucleotide tags, wherein a tagged polynucleotide of the plurality of tagged polynucleotides is generated by:

(A) providing an extension product by primer extension using a first oligonucleotide tag and a sample polynucleotide of said plurality of sample polynucleotides, and

(B) ligating a second oligonucleotide tag to said extension product, and

wherein said tagged polynucleotide of the plurality of tagged polynucleotides comprises:

(i) a sample sequence corresponding to said sample polynucleotide of the plurality of sample polynucleotides;

(ii) a first tag sequence distinguishing said sample polynucleotide from sample polynucleotides from other cells; and

(iii) a second tag sequence distinguishing said sample polynucleotide from other sample polynucleotides from said cell;

(c) amplifying said tagged polynucleotide, thereby generating a plurality of amplified polynucleotides corresponding to the tagged polynucleotide; and

(d) sequencing said plurality of amplified polynucleotides to determine sequences of the amplified polynucleotides corresponding to the sample sequence, the first tag sequence, and the second tag sequence of the tagged polynucleotide; and

(e) using the sequences determined in step (d) to count sample polynucleotides for multiple different sample polynucleotides of multiple different single cells of said plurality of cells.

Ex. 1001, 30:38–31:10.

C. The Asserted Grounds of Unpatentability

Petitioner asserts the following grounds of unpatentability:

Claims Challenged	35 U.S.C. § ¹	Basis
1–12, 19–28	103(a)	Linnarsson, ² McCloskey, ³ and “further in view of the knowledge of a [person of ordinary skill in the art]”

¹ The Leahy-Smith America Invents Act (“AIA”), Pub. L. No. 112-29, which was enacted September 16, 2011, made amendments to 35 U.S.C. §§ 102 and 103. AIA § 3(b)–(c). Those amendments became effective eighteen months later on March 16, 2013. *Id.* at § 3(n). Because the application from which the ’013 patent issued claims priority to an application filed before March 16, 2013, any citations herein to 35 U.S.C. §§ 102 and 103 are to their pre-AIA versions. *Id.* at § 3(n)(1).

² WO 2010/117620 A2, published Oct. 14, 2010 (“Linnarsson,” Ex. 1003).

³ Megan L. McCloskey et al., *Encoding PCR Products with Batch-Stamps and Barcodes*, 45 BIOCHEM. GENET., 761–767 (2007) (“McCloskey,” Ex. 1004).

Claims Challenged	35 U.S.C. § ¹	Basis
13–18	103(a)	Linnarsson, McCloskey, McCloskey II ⁴ and “further in view of the knowledge of a [person of ordinary skill in the art]”

Pet. 5.

II. ANALYSIS

A. Claim Construction

The challenged claims should be read in light of the Specification, as it would be interpreted by one of ordinary skill in the art. *In re Suitco Surface, Inc.*, 603 F.3d 1255, 1260 (Fed. Cir. 2010). Thus, we generally give claim terms their ordinary and customary meaning. *See In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007) (“The ordinary and customary meaning is the meaning that the term would have to a person of ordinary skill in the art in question.” (internal quotation marks omitted)); *see also* 37 C.F.R. § 42.100(b) (stating that claims are construed in IPRs according to the same standard as used in federal court).

The Petition states that “Petitioner does not believe that any terms require explicit construction in view of the prior art being presented.” Pet. 27. Despite this stated position, Petitioner argues that the ’013 patent provides a definition for the claim term “sample,” namely, “a quantity of material from a biological, environmental, medical, or patient source in

⁴ US 2007/0020640 A1, published Jan. 25, 2007 (“McCloskey II,” Ex. 1055).

which detection, measurement, or labeling of target nucleic acids is sought.”
Id. (quoting Ex. 1001, 12:15–18).

Patent Owner, for its part, states that it “agrees that at this time, solely for purposes of an institution decision on the Petition, no terms require explicit construction.” Prelim. Resp. 45.

On the record before us, and for purposes of deciding whether to institute, we find there is no need to provide an express construction of any claim term.

B. Obviousness Generally

A claim is unpatentable “if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.” 35 U.S.C. § 103(a) (2004). “Obviousness is a question of law based on underlying facts.” *MobileMedia Ideas LLC v. Apple Inc.*, 780 F.3d 1159, 1167 (Fed. Cir. 2015). The underlying facts include (i) the scope and content of the prior art, (ii) any differences between the prior art and the claimed invention, (iii) the level of ordinary skill in the field of the invention, and (iv) any relevant objective considerations of nonobviousness. *Id.* (citing *Graham v. John Deere of Kan. City*, 383 U.S. 1, 17–18 (1966)). An additional underlying fact is whether there was a reason to combine prior art teachings when so asserted. *Id.*

C. Level Of Ordinary Skill In The Art

In determining whether an invention would have been obvious at the time it was made, we consider the level of ordinary skill in the pertinent art

at the time of the invention. *Graham*, 383 U.S. at 17. “The importance of resolving the level of ordinary skill in the art lies in the necessity of maintaining objectivity in the obviousness inquiry.” *Ryko Mfg. Co. v. Nu-Star, Inc.*, 950 F.2d 714, 718 (Fed. Cir. 1991). The “person having ordinary skill in the art” is a hypothetical construct, from whose vantage point obviousness is assessed. *In re Rouffet*, 149 F.3d 1350, 1357 (Fed. Cir. 1998).

According to Petitioner:

A person of ordinary skill in the art (“POSA”) relating to the ’013 Patent would have had (1) a Masters degree and/or Ph.D. in molecular biology, genetics, chemistry, engineering, or a related discipline and at least two years of post-Masters, postdoctoral, or industry experience or (2) a Bachelor of Science in such disciplines and at least five years of academic or industry experience (including any experimental work toward a graduate degree), relating to DNA sequencing technologies, amplification methods, and gene expression analysis. EX1002 ¶ 51. Further, a POSA would have been familiar with associated tools, methods, and techniques including: (1) polynucleotide tagging, (2) amplification, (3) use of tags to overcome amplification bias, (4) single cell analysis, (5) ligation and primer extension, and (6) sequencing. EX1002 ¶¶ 52, 74-95.

Pet. 14–15.⁵ At this stage of the proceeding, Patent Owner does not dispute the level of skill proposed by Petitioner. *See generally* Prelim. Resp.

Because Petitioner’s formulation of the level of ordinary skill in the art appears consistent with the disclosure of the ’013 patent and the asserted prior art, and because there is no argument to the contrary at this stage of the proceeding, we apply Petitioner’s formulation in our analysis below.

⁵ Exhibit 1002 is a declaration by Gregory Cooper, Ph.D.

D. The Prior Art

“A petitioner in an inter partes review may request to cancel as unpatentable 1 or more claims of a patent . . . only on the basis of prior art consisting of patents or printed publications.” 35 U.S.C. § 311(b). Petitioner here asserts the following publications.

1. Linnarsson

Linnarsson is titled “Gene Expression Analysis In Single Cells.” Ex. 1003, code (54). Linnarsson discloses “a method of preparing [complimentary DNA or] cDNA libraries which can be used to analyze gene expression in a plurality of single cells.” *Id.* at 3:22–23. Linnarsson discloses the following “overview” of such a method:

(A) the tissue of interest is dissected; (B) a plurality of single cells are selected; (C) single cells are placed in separate wells of a 96-well plate and lysed; tagged reverse transcription is performed on each sample to produce cDNA; (D) cDNA samples are pooled and amplified; (E) sequencing is performed to obtain 100 million reads; and (F) identification of expressed genes and identification of cells from which they originated.

Id. at 4:8–13. Linnarsson discloses that the tag may be incorporated during cDNA synthesis via a tagged cDNA synthesis primer (“CDS”) and/or a tagged template switching oligonucleotide (“TSO”). *Id.* at 18:31–32 (“In some aspects of the invention, a tag can be incorporated into the cDNA during its synthesis. For example, the CDS and/or the TSO can include a tag.”).

Linnarsson claims priority to U.S. Provisional Patent Application No. 61/164,759 (“Linnarsson Provisional,” (Ex. 1015)), filed on March 30, 2009. Ex. 1003, code (30). Petitioner argues that the Linnarsson Provisional

supports at least one claim of Linnarsson, and, thus, Linnarsson is prior art as of the March 30, 2009, filing date of the Linnarsson Provisional. Pet. 15–17. As such, Petitioner asserts that Linnarsson is prior art to the challenged claims under 35 U.S.C. § 102(e). *See id.* at 16 (“Linnarsson is prior art to the challenged claims even if the Challenged Claims are entitled to their earliest priority date of August 20, 2009.”). Patent Owner does not dispute that Linnarsson is prior art to the challenged claims. *See generally* Prelim. Resp.

2. McCloskey

McCloskey is titled “Encoding PCR Products with Batch-stamps and Barcodes.” Ex. 1004, 1. McCloskey explains that when employing the polymerase chain reaction (“PCR”), there is “always uncertainty concerning the source of the template DNA that gave rise to a particular PCR product.”

Id. McCloskey reports that it solved this problem by using

an encoding oligonucleotide with five distinct informational regions (Fig. 1): (1) the batch-stamp, unique to each experiment, specifies the DNA source such as the patient or sample identification, and the date of reaction; (2) the random barcode distinguishes among sequences arising from different cell or allele copies; (3) the primer-binding site facilitates specific PCR amplification; (4) the genomic target-binding site targets the locus to be encoded prior to amplification; and (5) the extra 5' bases serve as an internal sentinel of recoding. This encoding oligonucleotide is annealed to denatured DNA and extended by Sequenase (USB) (Fig. 1). Sequenase-extension products are column-filtered to remove any unincorporated, encoding oligonucleotides and amplified using standard PCR protocols (Fig. 1).

Ex. 1004, 2. Such an encoding oligonucleotide with two tag sequences is the heart of what Petitioner relies upon with respect to McCloskey. *See,*

e.g., Pet. 22–23 (“McCloskey discloses a method of DNA analysis for single-cell samples that utilizes an ‘encoding oligonucleotide’ having ‘five distinct information regions,’ two of which are tag sequences that distinguish, respectively, polynucleotides and samples.”).

McCloskey was published in 2007 (*see* Ex. 1004, 1), which is more than one year before the earliest possible effective filing date of the challenged claims (*i.e.*, August 20, 2009). As such, Petitioner asserts that McCloskey is prior art to the challenged claims under 35 U.S.C. § 102(a) and (b). *See* Pet. 22. Patent Owner does not dispute that McCloskey is prior art to the challenged claims. *See generally* Prelim. Resp.

3. *McCloskey II*

McCloskey II is titled “Molecular Encoding Of Nucleic Acid Templates For PCR And Other Forms Of Sequence Analysis.” Ex. 1055, code (54). Petitioner asserts that the disclosure of McCloskey II is “similar” to that of McCloskey, with the main difference being that “McCloskey II discloses that its barcode sequence may comprise up to 30 nucleotides.” Pet. 26 (citing Ex. 1055 ¶21).

McCloskey II was published in 2007 (*see* Ex. 1055, code (43)), which is more than one year before the earliest possible effective filing date of the challenged claims (*i.e.*, August 20, 2009). As such, Petitioner asserts that McCloskey II is prior art to the challenged claims under 35 U.S.C. § 102(a) and (b). *See* Pet. 22. Patent Owner does not dispute that McCloskey II is prior art to the challenged claims. *See generally* Prelim. Resp.

E. Ground I

Petitioner argues that claims 1–12 and 19–28 would have been obvious over Linnarsson, McCloskey, and the knowledge of a person of ordinary skill in the art. Pet. 5. As discussed below, there is not a reasonable likelihood that Petitioner would prevail in proving that any claim is unpatentable on this ground.

1. Claim 1

In mapping the prior art to claim 1, the Petition breaks the claim into eleven portions, labeled [1A] through [1K], and organizes its arguments accordingly. See Pet. 27–46.

For limitations [1A], [1B], [1D], [1F], [1G], [1I], and [1J], Petitioner relies on Linnarsson alone, which discloses incorporating tags into “cDNA during its synthesis,” wherein each tag has a “barcode” unique to the particular single cell whose mRNA generated the cDNA sample “such that once the tagged cDNA samples [are subsequently] pooled, the tag can be used to identify which single cell from each cDNA sample originated.” Ex. 1003, 18:31–19:11; see Pet. 27–28 (regarding [1A]), 28–29 (regarding [1B]), 31–34 (regarding [1D]), 39–42 (regarding [1F]), 42–43 (regarding [1G]), 44 (regarding [1I] and [1J]). In its Preliminary Response, Patent Owner does not dispute that Linnarsson teaches these limitations (i.e., limitations [1A], [1B], [1D], [1F], [1G], [1I], and [1J]). See Prelim. Resp. 45–65.

However, the remaining limitations, i.e., [1C], [1E], [1H], and [1K], relate to “combinatorial tagging” by “ligating a second oligonucleotide tag” and thereafter using the tags ultimately to “count sample polynucleotides for multiple different sample polynucleotides of multiple different single cells of

said plurality of cells.” Ex. 1001, 30:43–31:10. For these limitations, Petitioner relies on modifying Linnarsson in view of McCloskey’s second tag and the knowledge of a person of ordinary skill in the art that such a second tag could be attached by ligation, although McCloskey uses a different mechanism.⁶ Pet. 29–30, 34–39, 43, 45–46. In Petitioner’s words: “it would have been obvious to utilize Linnarsson’s cDNA library preparation to introduce a cell tag and then further introduce a second tag to distinguish polynucleotides (as taught by McCloskey) using ligation techniques that were well-known in the art.” Pet. 35.

Patent Owner presents myriad arguments against institution. *See* Prelim Resp. 23–45 (urging denial under 35 U.S.C. § 325(d)), 46 (arguing the Petition fails to establish the asserted references constitute analogous art), 47–48 (arguing the Petition fails to clearly identify the art being relied upon), 48–57 (arguing the Petition fails to articulate how the references allegedly would have been combined), 58–60 (arguing that Linnarsson and McCloskey are incompatible), 60–62 (arguing a lack of motivation to add a second tag *via ligation*), 62–63 (arguing a lack of motivation for adding a second tag), 63–65 (arguing lack of reasonable expectation of success). For the reasons that follow, we agree with Patent Owner that the Petition fails to

⁶ Petitioner suggests, without any explanation, that Linnarsson alone *might* teach ligating a second tag. *See* Pet. 34 (“To the extent Linnarsson does not teach ligating a second oligonucleotide tag to the claimed “extension product,” this would have been obvious in view of McCloskey and the knowledge of a POSA.”). We discern no evidence to support that Linnarsson teaches tagging a polynucleotide with a second tag, whether by ligation or otherwise.

show a reasonable expectation of success in combining the references in a manner that is within the scope of claim 1.

Claim 1 is directed to “[a] method for multiplexed analysis of nucleic acids from [a plurality of] single cells.” Ex. 1001, 30:38–39. The method contemplates that each “single cell of the plurality of cells comprises a plurality of sample polynucleotides” and recites the step of “performing combinatorial tagging” in which “a first tag sequence distinguish[es] said sample polynucleotide from sample polynucleotides from other cells” and “a second tag sequence distinguish[es] said sample polynucleotide from other sample polynucleotides from said cell.” *Id.* at 30:40–64.

Patent Owner argues that “Linnarsson’s tags are designed to anneal to *each and every* mRNA and/or cDNA to analyze gene expression, and are *not* designed to anneal solely to a *particular* gene or allele; nor does Petitioner claim they are.” Prelim. Resp. 59. In fact, Petitioner concedes as much. *See* Pet. 48 (“Linnarsson teaches that tags attach to mRNA nonspecifically; for example, every CDS attaches to mRNA by hybridizing with the poly-A tail, regardless of its unique tag sequence.”), 18–19 (explaining that Linnarsson’s TSO “‘anneals transiently’ to the series of cytosine nucleotides at the end” of a strand). In other words, each strand of cDNA that is tagged in Linnarsson is tagged regardless of the polynucleotide sequence of the cDNA or its corresponding mRNA. Thus, Linnarsson’s tags do not distinguish between “sample polynucleotides,” whether cDNA or mRNA, of different sequences.

Patent Owner argues that, in the proposed combination, the Petition does not explain how a person of ordinary skill in the art would have modified Linnarsson to include “a second tag sequence distinguishing said

sample polynucleotide from other sample polynucleotides from said cell,” as recited in claim 1. Ex. 1001, 30:62–64. *See* Prelim. Resp. 64 (“Petitioner does not explain how *each* sample nucleotide in Linnarsson would be tagged based on McCloskey’s teachings” to achieve the claimed invention.). Thus, we turn now to the combination Petitioner proposes.

As discussed above, Petitioner states that “it would have been obvious to utilize Linnarsson’s cDNA library preparation to introduce a cell tag and then further introduce a second tag to distinguish polynucleotides (as taught by McCloskey) using ligation techniques that were well-known in the art.” Pet. 35. It is unclear from this statement how the prior art teachings purportedly would have been combined, at least because the statement fails to identify the structure to which the second tag would be ligated.

Ultimately, however, Petitioner identifies said structure as Linnarsson’s CDS or TSO. *See* Pet. 38 (“[A person of ordinary skill in the art] would have had a reasonable expectation of success in ligating a second sequence to Linnarsson’s CDS or TSO.”). Petitioner further states that it would have been obvious to ligate the second tag to Linnarsson’s CDS or TSO “after extension.” *See id.* at 39 (In the proposed combination, “the second tag sequence is added to the CDS or TSO after extension.”); *see also* Ex. 1002 ¶149 (“The only difference is in the timing: with the combination of Linnarsson and McCloskey discussed above, Section XII.A.1, the tag sequence is part of the CDS or TSO prior to extension whereas by using ligation, the tag sequence is added after extension.”).

Petitioner’s proposal that the second tag would be “added to the CDS or TSO after extension,” appears to satisfy the portion of claim 1 specifying that the second tag must be ligated to an “extension product.” *See* Ex. 1001,

30:43–51 (claim 1 language reciting: “(A) providing an extension product by primer extension using a first oligonucleotide tag and a sample polynucleotide of said plurality of sample polynucleotides, and (B) ligating a second oligonucleotide tag to said extension product.”). However, Petitioner’s proposal appears to defeat satisfaction of another portion of claim 1, namely a “second tag sequence distinguishing said sample polynucleotide from other sample polynucleotides from said cell.”

Ex. 1001, 30:62–64. For if the second tag is “added *to the CDS or TSO* after extension,” as opposed to the sample polynucleotide, as Petitioner argues (Pet. 39 (emphasis added)), it would appear that the second tag would be incapable of distinguishing any sample polynucleotide from other sample polynucleotides. Rather, the second tag would be ligated to each and every extension product bearing a CDS or TSO without regard to the sequence of any sample polynucleotide.

In an *inter partes* review, it is the Petitioner’s “burden to demonstrate both that a skilled artisan would have been motivated to combine the teachings of the prior art references to achieve the claimed invention, and that the skilled artisan would have had a reasonable expectation of success in doing so.” *In re Magnum Oil Tools Int’l, Ltd.*, 829 F.3d 1364, 1381 (Fed. Cir. 2016) (quotation marks and citations omitted).

Based on the information presented here, there is not a reasonable likelihood of Petitioner prevailing in showing that a skilled artisan, even if motivated to combine the teachings of the prior art references and knowledge of the person of ordinary skill in the art to achieve the subject matter of claim 1, would have had a reasonable expectation of success in doing so.

2. Claims 2–12, 19–28

Each of claims 2–12 and 19–28 ultimately depends from claim 1. Ex. 1001, 31:10–45, 32:8–59. Accordingly, as with claim 1, there is not a reasonable likelihood that Petitioner would prevail in proving that any of claims 2–12 and 19–28 would have been obvious over Linnarsson, McCloskey, and the knowledge of a person of ordinary skill in the art.

F. Ground II

Petitioner argues that claims 13–18 would have been obvious over Linnarsson, McCloskey, McCloskey II, and the knowledge of a person of ordinary skill in the art. Pet. 5. Each of claims 13–18 ultimately depends from claim 1. Ex. 1001, 31:46–32:7. However, the additional reference applied in Ground II relative to Ground I, i.e., McCloskey II, is cited merely for “teach[ing] using molecular-tags each comprising 30 random base pairs, which would allow the creation of 4^{30} (1.15×10^{18}) unique second tag sequences.” Pet. 61–62. Petitioner does not apply McCloskey II in a manner that could cure the deficiency in the challenge to claim 1. Accordingly, there is not a reasonable likelihood that Petitioner would prevail in proving that any of claims 13–18 would have been obvious over Linnarsson, McCloskey, McCloskey II, and the knowledge of a person of ordinary skill in the art.

III. CONCLUSION

The Petition fails to show there is a reasonable likelihood that Petitioner would prevail with respect to at least one of the claims challenged in the Petition. *See* 35 U.S.C. § 314(a); 37 C.F.R. § 42.108.

IV. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that the Petition is denied, and no trial is instituted.

IPR2023-00958
Patent 10,697,013 B1

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